IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7866 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

YAKUBBHAI L. IMBALIYA - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner(s) : 1,
MR JASWANT K SHAH for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 16/09/2005

ORAL JUDGMENT

1. In the present petition, the petitioner S.T.Corporation has challenged the legality of an award dated 8th September, 2004 passed by Industrial Tribunal,

Ahmedabad. For some alleged misconduct the petitioner held a departmental inquiry against the respondent workman. The disciplinary authority imposed punishment of withholding of one increment with future effect on 15/10/1993. The reviewing authority however, enhanced the punishment and provided for a punishment of stoppage of two increments with future effect by an order dated 9/2/1994. The respondent workman challenged the penalty before the Industrial Tribunal in Reference IT No. 219/97. The Industrial Tribunal found that the charge was proved. However, finding that the reviewing authority did not have power to enhance the punishment, set aside the enhanced punishment order.

2. Learned advocates appearing for the parties submitted that keeping the question of power of reviewing authority to enhance the punishment aside since the said issue is pending before the Division Bench, this petition can be disposed of in facts of the present case.

3. Considering the fact that there is not much of a difference in the punishment imposed by the disciplinary authority as enhanced by the reviewing authority in exercise of powers under Section 226 and 227 of the

Constitution of India, I do not find it necessary to interfere with the order passed by the Industrial Tribunal restoring the original punishment imposed by the disciplinary authority. Learned advocate Mr.Shah appearing for the respondent workman however agreed that the workman would not insist on receiving the difference in salary pursuant to the setting aside of the punishment order passed by the reviewing authority as provided by the Industrial Tribunal in its impugned award dated 8/9/2004.

4. In the result, the petition is allowed in part. In so far as the order of the Industrial Tribunal restores the original penalty imposed by the disciplinary authority is concerned; the same is upheld. The workman however, will not be entitled to receive difference in salary on the basis of such order and the direction given by the Industrial Tribunal in this regard are set aside. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

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